HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO. 21581 OF 2006

Between:

Faheemoddin & others

..... Petitioners

AND

The Secretary,
Gram Panchayat Nadpalli & others

.....Respondents

:: O R D E R::

Counsel for the Petitioners : Shri P. Bhaskar

Counsel for respondent No.1 : Shri G. Rama Rao

Dated: 18.10.2006

Per G.S.SINGHVI, CJ

The petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India for issue of a mandamus to respondent Nos. 1 and 2 to demolish the alleged unauthorized construction made by respondent Nos. 3 and 4 in House No.4-20/1, Ghanpur Village, Nadpalli Gram Panchayat, Dichpalli Mandal, Nizamabad District.

We have heard Shri P. Bhaskar, learned counsel for the petitioners and perused the record. In our opinion, the writ petition does not deserve to be entertained because,

(i) the petitioner has not impleaded the Gram Panchayat concerned as party to the writ petition. The Secretary and the District Panchayat Officer, who have been impleaded as respondent Nos.1 and 2, are only functionaries of the Gram Panchayat and not the Gram Panchayat which has a jural personality and which can sue and be sued in its own name;

(ii) for deciding whether respondent Nos. 3 and 4 have raised construction in violation of the sanctioned plan and have encroached on the public property, an effective remedy is available to the petitioners by way of a civil suit and there is no extraordinary reason for making a departure from the settled law that the High Court will not entertain writ petition under Article 226 of the Constitution of India if an effective alternative remedy is

available to the petitioner.

For the reasons stated above, the writ petition is dismissed leaving the petitioners free to avail remedy by filing civil suit.

As a sequel to dismissal of the writ petition, W.P.M.P.No.27372 of 2006 filed by the petitioners for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

18.10.2006
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